

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 4112-01
Bill No.: HB 1399
Subject: General Assembly; Liability; Civil Procedure; Attorney General; State
Type: Original
Date: January 4, 2016

Bill Summary: This proposal grants the President Pro Tem and the Speaker standing to intervene in cases challenging the constitutionality of state law and authorizes legislators to hire outside counsel when sued in their official capacity.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on General Revenue	\$0	\$0	\$0

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
State Legal Expense Fund	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)
Total Estimated Net Effect on <u>Other</u> State Funds	\$0 or (Unknown)	\$0 or (Unknown)	\$0 or (Unknown)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 5 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Total Estimated Net Effect on FTE	0	0	0

☐ Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2017	FY 2018	FY 2019
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Missouri House of Representatives, State Auditor's Office, Missouri Senate, Office of Secretary of State, Lieutenant Governor's Office and State Treasurer's Office** each assume the proposal will have no fiscal impact on their respective organizations.

Officials from the **Attorney General's Office (AGO)** assume the proposal states that funds in the state legal expense fund may be expended to pay the reasonable attorneys' fees, court costs, and related legal expenses incurred by members of the general assembly. The AGO assumes that any potential costs of the AGO arising from this proposal can be absorbed with existing resources. It is unknown the extent of the impact of this proposal on the state legal expense fund due to the uncertainty of litigation and the amount of fees, costs, expenses and judgments that may be incurred in the event of litigation.

Oversight assumes attorneys' fees, court cost and related legal expenses the General Assembly may incur as a result of intervention in a judicial proceeding will be paid from the state Legal Expense Fund. Oversight will range the fiscal impact of this proposal from \$0 (the General Assembly does not intervene in any judicial proceedings) to an unknown cost to the State Legal Expense Fund (0692). The balance of the State Legal Expense Fund was \$53,703 on December 31, 2015 and \$0 on June 30, 2015.

<u>FISCAL IMPACT - State Government</u>	FY 2017	FY 2018	FY 2019
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STATE LEGAL EXPENSE FUND

<u>Cost</u> - Potential legal expenses	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
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ESTIMATED NET EFFECT TO THE STATE LEGAL EXPENSE FUND	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>	\$0 or <u>(Unknown)</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2017	FY 2018	FY 2019
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	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
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FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This proposal authorizes the Speaker of the House of Representatives and the President Pro Tem of the Senate to intervene on behalf of the General Assembly in any judicial, administrative, or other proceeding in which the constitutionality of Missouri laws, rules, or regulations are being challenged.

If the Attorney General declines to defend or appeal a ruling regarding a challenged provision of Missouri laws, rules, or regulations, or does so inadequately, the General Assembly is authorized to defend the challenged provision alongside the Attorney General or in place of the Attorney General. The Speaker and President Pro Tem must agree to invoke this standing.

When the General Assembly intervenes in a judicial proceeding under these provisions, the House and Senate committees responsible for administration and accounts must jointly approve the hiring of outside legal counsel, and any fees, court costs, or related legal expenses must be paid from the state legal expense fund.

If the Senate or House of Representatives is named as a party in a civil action, or if a member is named as a party in his or her official capacity, subject to the specified approval, then such body or member is authorized to retain private legal counsel and any reasonable attorneys' fees, court costs, and related legal expenses must be paid from the state legal expense fund.

Any member is authorized to file an amicus brief identifying his or her objections to the position taken by the General Assembly or either chamber in such an action, however, such amicus brief will not be deemed to represent the official position of the General Assembly.

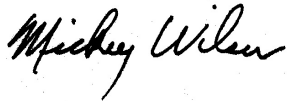
The state legal expense fund must be available to pay any claims or amounts required by any final judgment obtained under these provisions. The proposed legislation appears to have no direct fiscal impact.

This proposal has an emergency clause.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Attorney General's Office
Missouri House of Representatives
Missouri Senate
State Auditor's Office
State Treasurer's Office
Office of Secretary of State
Lieutenant Governor's Office



Mickey Wilson, CPA
Director
January 4, 2016

Ross Strobe
Assistant Director
January 4, 2016